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Hiroyuki Kobayashi

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte HIROYUKI KOBAYASHI

Appeal 2008-3606
Application 10/759,209
Technology Center 3700

Decided: September 22, 2008

Before TONI R. SCHEINER, DEMETRA J. MILLS, and ERIC GRIMES,
Administrative Patent Judges.

MILLS, *Administrative Patent Judge.*

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134. The Examiner has rejected the claims for obviousness. We have jurisdiction under 35 U.S.C. § 6(b).

The following claim is representative.

1. A diagnosis supporting device connected to an endoscope system that captures an image of a subject facing a tip of an endoscope to generate special observation image data for displaying a special observation image for diagnosis based on image data transmitted from the endoscope system, said diagnosis supporting device comprising:

- a light emitting section that alternately emits excitation light to excite living tissue and reference light to illuminate the subject, said light emitting section including a light source that varies intensity of the excitation light and reference light in response to voltage applied to said light source;

- a probe that is inserted through a forceps channel to guide the excitation light and the reference light from a proximal end to a distal end;

- an image data acquiring section that acquires fluorescent image data generated by the endoscope system when the light emitting section emits the excitation light and acquires reference image data generated by the endoscope system when the light emitting section emits the reference light;

- an intensity measuring section that extracts the maximum brightness level from the brightness levels of all the pixels in the fluorescent image data and extracts the maximum brightness level from the brightness levels of all the pixels in the reference image data whenever the image data acquiring section acquires a set of the reference image data and the fluorescent image data;

- a calculating section that calculates a first intensity coefficient based on the maximum brightness level of the fluorescent image data according to a first operational expression and that calculates a second intensity coefficient corresponding to the maximum brightness level of the reference image data according to a second operational expression; and

- a light controller that controls the intensity of the excitation light according to the first intensity coefficient and that controls the intensity of the reference light according to the second intensity coefficient, said light controller controlling the intensities of said excitation light and said reference light without a variable diaphragm and without a light stop by changing the voltage applied to said light source,

wherein said first and second operational expressions are determined such that the intensities of said excitation light and said reference light increase as the maximum brightness levels of said fluorescent image data and said reference image data decrease.

Cited References

Ozawa et al.	US 6,080,104	Jun. 27, 2000
Furusawa et al.	US 6,371,908 B1	Apr. 16, 2002
Higuchi et al.	US 6,734,894 B1	May 11, 2004

Ground of Rejection

Claims 1 and 3-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable for obviousness over Furusawa, Ozawa and Higuchi.

DISCUSSION

Background

“The present invention relates to a diagnosis supporting device for generating an image signal of an image of a subject used in a diagnosis of subcutaneous living tissue under an inner wall (a body cavity wall) of an esophagus, [or] a bronchial tube.” (Spec. 1.) The device may be an endoscope. (Spec. 2.)

We agree with the rejections and responses to Appellant’s arguments that are set out in the Examiner’s Answer, and therefore adopt the Examiner’s reasoning as our own. The Examiner’s rejection of the claims for obviousness is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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1950 ROLAND CLARKE PLACE
RESTON VA 20191